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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,065	02/05/2004	Thomas J. McKnight	296-022296	6045

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EXAMINER
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CASTELLANO, STEPHEN J

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/773,065

Applicant(s)

MCKNIGHT, THOMAS J.

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____                                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____  | 6) <input type="checkbox"/> Other: ____                           |

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Claims 4 and 20 are identical, should claim 4 become allowable, claim 20 will be canceled.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitation "the plurality of optic panels" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the circumferential groove" in line 2. There is insufficient antecedent basis for this limitation in the claim.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 5-8, 11 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Diak Ghanem.

Diak Ghanem discloses a drinking container with shell, sleeve and design. The design is applied as stated in col. 4, lines 4-16.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 5-11, 13, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yeh in view of Diak Ghanem.

Yeh discloses the invention except for the design formed on the outer surface of the sleeve (claims 1-18) or the inner surface of the shell (claims 19-20). Diak Ghanem teaches forming a design on either the outer surface of the sleeve or the inner surface of the shell. It would have been obvious to replace the decorative mat 14 of Yeh with either of the design formations as taught by Diak Ghanem as motivated by the protection afforded the design in a sealed void and on a surface.

Re claim 18, Official notice is taken that insulating pads are well known in the drink container art. It would have been obvious to add an insulating pad to provide protection for the surface the pad is set upon from condensation or hot or cold temperature differences as well as protecting the bottom surface of the container for harsh impact or scratching.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Diak Ghanem in view of Liu.

Diak Ghanem discloses the invention except for the screw fastener attachment of the shell base to the bottom of the sleeve. Liu teaches the screw fastener attachment of the shell base to the bottom of the sleeve. It would have been obvious to modify the attachment of the bottom

portions of sleeve and shell to allow the sleeve to be detached from the shell without liquid contained in the sleeve needing to be removed prior to detachment.

Claims 2, 4 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yeh in view of Diak Ghanem as applied to claims 1 above, and further in view of Lage et al. (Lage).

The combination discloses the invention except for the shell material being acrylic. Lage teaches an outer shell of transparent acrylic. It would have been obvious to modify the material to be acrylic to provide a strong, durable material to prevent breakage and deterioration of the shell with use.

Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yeh in view of Diak Ghanem as applied to claims 1 above, and further in view of Linz et al. (Linz).

The combination discloses the invention except for the lid. Linz teaches a lid. It would have been obvious to modify the combination to include a lid to prevent spillage through the open top of the container and to maintain the temperature of a beverage for a longer period of time and to prevent the beverage contents from being contaminated.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yeh in view of Diak Ghanem as applied to claims 13 above, and further in view of Rolfes et al. (Rolfes).


The combination discloses the invention except for the protrusion for the handle. Rolfes teaches a protrusion for a handle. It would have been obvious to modify the combination to include a protrusion for a handle to allow the handle to be detached and replaced so that a damaged handle will not lead to discarding of the entire beverage container.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Stephen J. Castellano  
Primary Examiner  
Art Unit 3727

sjc